

IN THE HIGH COURT OF GUJARAT AT AHMEDABAD

SPECIAL CRIMINAL APPLICATION No 533 of 1999

For Approval and Signature:

Hon'ble MR.JUSTICE A.K.TRIVEDI

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1. Whether Reporters of Local Papers may be allowed to see the judgements? : YES
2. To be referred to the Reporter or not? : NO
3. Whether Their Lordships wish to see the fair copy of the judgement? : NO
4. Whether this case involves a substantial question of law as to the interpretation of the Constitution of India, 1950 of any Order made thereunder? : NO
5. Whether it is to be circulated to the Civil Judge? : NO

DEVAYAT JIVA CHAVDA

Versus

STATE OF GUJARAT

Appearance:

MS KRISHNA U MISHRA for Petitioner

Mr. N.D.Gohil, A.P.P. for the respondent-State.

CORAM : MR.JUSTICE A.K.TRIVEDI

Date of decision: 05/07/1999

ORAL JUDGEMENT

Rule. Ld. A.P.P. Mr. N.D.Gohil waives service of rule on behalf of the respondent-State.

The petitioner has challenged the order dated 7-6-1999 passed by the learned J.M.F.C, Court no.1 Jamnagar City, District Jamnagar in the proceedings of Crime Register no.270/99 and has also challenged the

order of the learned Addl. Sessions Judge dated 11-6-1999 passed in the proceedings of Criminal Revision Application no.64/99.

The petitioner was apprehended in respect to Crime Register no.270/99 for the offences made punishable under Sec.384, 506 and 511 of the Indian Penal Code. During the investigation, the Investigating Officer claimed remand custody of the petitioner. That vide order dated 7-6-1999 the learned J.M.F.C., Jamnagar granted remand custody of the petitioner for one day on the basis of reasons stated in the order, copy of which is produced at page 19 to 22. Being aggrieved by the said order, the petitioner preferred Criminal Revision Application no.64/99. The learned Addl. Sessions Judge vide order dated 11-6-1999 rejected the Revision Application and confirmed the order passed by the learned J.M.F.C. granting remand custody of one day, and hence, the present petition.

As per the prosecution, it is alleged that the petitioner who claims to be a social worker has visited the office of Reliance Petroleum and has asked to arrange for a meeting with the Manager. It is also alleged that the petitioner has claimed Rs.2,00,000/- by intimidating telephone to the Manager of Reliance Company for the purpose of election, and as such, has committed an offence of extortion and criminal intimidation.

On perusal of the order of the learned J.M.F.C., it appears that the ld. J.M.F.C. has passed the order mechanically without assigning any logical reason for granting remand custody of the petitioner to the police. Though it is stated that police diary and relevant police papers have been perused, no facts have been stated in the order as to why and for what investigation custodial interrogation of the petitioner is required. Similarly, the learned Sessions Judge has discarded the submission urged on behalf of the petitioner whereby apprehension has been shown that informant being a giant Company has influenced the police authority to bring pressure on the petitioner who has been taking the cause of poor workers as a social worker and to settle the score with the petitioner, remand is claimed.

In the facts and circumstances of the case as apparent from the impugned order, it is difficult to uphold the submission urged on behalf of the respondent that remand custody of one day was necessary, and thereby, the order is just and proper.

It is a settled proposition of law that during the investigation the minimum period of remand custody should be granted having regard to the facts and circumstances of the case. In the instant case, facts do not suggest that custodial interrogation was required for further investigation of the alleged offence.

On the basis of the aforesaid discussion, the impugned order of learned J.M.F.C., dated 7-6-1999 granting remand custody of one day of the petitioner as well as order dated 11-6-1999 passed by the Additional Sessions Judge rejecting the Revision Application of the petitioner being Criminal Revision Application no.64/99 are quashed and set aside. The petitioner be sent to judicial custody pending the further proceedings in accordance with law.

Rule is made absolute accordingly.

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